GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

Tribal Welfare Department – Appeal Petition filed by Sri S.R.T.P. Thirupathi Raju S/o Simhadri Raju and his children, VIzianagaram District against the proceedings Rc.No.1729/2001.C5, dated 01.10.2003 of the District Collector, Vizianagaram under Section 7(2) of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) - Regulation of Issue of Community Certificates Act, 1993 (AP Act No.16/1993) – Appeal Petition dismissed – Orders -Issued.

SOCIAL WELFARE (TW.CV.2) DEPARTMENT

G.O.Ms.No.57 **Dated:04.05.2018**
Read the following:

1. Proceedings of the District Collector, Vizianagaram, Rc.No. 1729/2001.C5, dated 01.10.2003.
2. Appeal Petition filed by Sri S.R.T.P. Tirupati Raju, Mamidipalli, Salur (M), Vizianagaram District, dt:.10.2012 before the Principal Secretary, Revenue Department, A.P. Secretariat.
3. The order of the Hon'ble High Court of A.P., Hyderabad in W.P.No. 17693/2014, dated 30.06.2014 filed by Sri S.R.T.P. Tirupati Raju and (2) others, Mamidipalli, Salur (M), Vizianagaram District.
3. Govt., Memo No.46141/Ser.II /2014, Revenue (Ser.II) Department, dated 11.12.2014.
5. Govt. Memo No.11348/CV.2/2014, T.W.(CV.2) Dept., dated 19.12.2014.
6. From the District Collector, Vizianagaram, Lr. No. (M) Rc.No. 34/2014/C5, dated: .01.2015.
7. Govt. Memo No.11348/CV.2/2014, T.W.(CV.2) Dept., dated 18.03.2016, 29.04.2016 & 05.12.2016 & 18.08.2017.
8. Documents filed by the appellant before the Government, dated nil.

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ORDER:

In the reference 1st read above, the District Collector, Vizianagaram has issued orders that Sri S.R.T.P. Thirupathi Raju S/o Simhadri Raju and his children can't considered as ST-Mukha Dora community and belong to 'Kshatriya' community.

2. In reference 2nd read above, Sri S.R.T.P. Thirupathi Raju S/o Simhadri Raju has filed an appeal petition before the Prl. Secretary, Revenue Department.

3. In the reference 3rd read above, Sri S.R.T.P. Thirupathi Raju S/o Simhadri Raju and his children have filed W.P.No. 17693/2014, dated 30.06.2014 before the Hon'ble High Court of AP against the Principal Secretary to the Government, Revenue Department & Secretary to the Government, Revenue Department for not disposing off the said appeal petition and for not reconstructing the file in respect of the said appeal pursuant to his representation dated 19.11.2003 and for not taking further proceedings in the matter. Based on the directions of the Hon'ble High Court, the Revenue Department have transferred the original file to this Department in the reference 4th read above.

4. In the reference 5th read above, the District Collector, Vizianagaram was requested to arrange to furnish the connected records and parawise remarks on the said appeal petition filed by Sri S.R.T.P. Tirupati Raju and his children to avoid further legal implications in the matter.

5. In the reference 6th read above, the District Collector, Vizianagaram has furnished the Parawise remarks and the connected records on the Appeal Petition filed by Sri S.R.T.P. Tirupati Raju and his children.

6. The said Appeal Petition has been posted for hearing on 09.04.2016, 14.05.2016, 24.12.2016 & finally on 16.09.2017 and the same has been informed to the Appellant and the Counsel for the Appellant in the reference 6th read above, and they were requested to attend for the hearing along with all Documentary Evidences/ Certificates in support of the community claim, failing which, it will be construed that

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there is no explanation what-so-ever to furnish in the matter and that the case will be decided based on the material available with the Government. In the reference 8th read above, the appellant have submitted documents in support of the their ST-Mukha Dora community claim.

7. After hearing both the sides and on perusal of the records/ the copies of evidences/academic record/ grounds filed by the Appellant / the parawise remarks submitted by the District Collector, Vizianagaram and proceedings of the District Collector, Vizianagaram dated 01.10.2003 the Appellate Authority is observed that :

I. The appellant in his grounds has stated that the District Level Committee in its findings clearly observed that the appellants and their family members have followed the customs of Mooka Dora Community and they have relations with the same community people on both maternal side and paternal side and made recommendations infavour of the appellant for issue of the Mooka Dora caste Certificate. But the learned District Collector brushed aside the recommendations of the District Level Committee and rejected the claim of the Appellant. Further he has stated that in the year 1912 and in those days the Tribal Community people used to describe themselves as Kshariyas to stratify the selves as Kshatriyas for the reason that the in those days the Tribal's were not being honoured by the society and to got honoured and to make themselves look higher in the society the Tribals including the Mooka Dora community people used to describe themselves as Kshatriyas though they do not belongs to Kshatriya community and in reality they are Tribals. The learned District Collector failed to consider this aspect and in routine manner confirmed the endorsement of the learned Mandal Revenue Officer and rejected the claim of the appellant. They have relationship with Dippala Soori Dora family is only on Maternal side. The said findings of the Collector is incorrect and contrary to the evidence on record.

II. The appellant in his grounds has also stated that the learned Collector failed to see that the learned MRO salur failed to consider the evidence produced by the appellants in support of their community claim as Mooka Dora under the Jayapuram Samsthanam Madugula Estate, Pachipenta Firka Mamidipalli Village.That both the authorities failed to see that the people who are having surname Teda Tyada belongs to Mooka Dora and 1st Zamindar and one Tamanna Dora is the first of Zamindars family and Sri Raja Poosapeti was added in their original surname TEDA or TYADA in the year of 1974 for their courage shown by them in the war. So the surname of the Appellant is only Teda or Tyada but not Tyada Sri Raja Poosapati, Sri Raja Poosapati is only a title which was assed to their original surname. The said fact is quite evident from the Madras District Gazettee Vizagapatnam of the year 1907.

III. The District Level Scrutiny Committee has observed that, during the enquiry, the appellants and their father on a question stated that they have totems as well as intiperlu, menarikam, traditions observe at wedding ceremonies, practice of variant of Chinna rozu and pedda rozu ceremonies, seclude girls within an enclosure of arrows when they attain puberty in olden days but gradually discontinued, observe no pollution at subsequent periods etc., as envisaged about the customs of Mooka Doras in the District Gazette, Vizianagaram district. Taking all these factors, particularly judgment of Supreme Court in Special appeal 4/1957 filed by late Sri Dippala Suri Dora against Sri V.V.Giri and the appellants belong to Sri Dippala Suri Dora's family into account, the committee opined that the Competent Authority may be directed to issue caste certificate to the appellants considering the caste as "Mooka Dora" and the DLSC thus opened that, appellant as ST Mooka Dora by caste and differed with MRO, Salur. Since the findings of the DLSC is quit contrary to the gross level report the matter was placed before the Commissioner Tribal Welfare who

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has given guidelines to proceed further. Accordingly the matter was again refer to Sub Collector, Parvathipuram for enquiry and report. Taking into consideration i) the report of the Tahsilar, Salur to the appeal petition ii) findings of DLSC iii) guidelines of the Commissioner of Tribal Welfare iv) enquiry report of the Sub Collector, Parvathipuram v) Judgment in Appeal Suit No.98/98, dt.21.09.2001, gone through for deciding the case. Its felt that, It is true that the DLSC has given their findings merely considering the relationship of the applicants with Dippala Suri Dora and other Dippala families and the Court Judgment in respect of Dippala Suri Dora of 1957. The relation of the applicants with Dippala Suri Dora and other Dippala families is only on the maternal side. But as per the judgment of Supreme Court of India only father's caste (Paternal Side) will be taken into consideration, while deciding the community of the individual. As regards, judgment of 1957 and caste certificate issued to the father and fore-fathers of the applicants, the District Judge, Vizianagaram in his judgment in Appeal suit No.98/1988, dt.21.09.2001 between Sri P.B.Ch.Narayana Hoja Raju, S/o Late Seetharama Raju and 8 others Vs. State Government represented by the Collector, Vizianagaram and Mandal Revenue Officer, Salur; has clearly opined that "If may be seen that the Government enacted A.P. (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act, 1993 (herein after called the Act). The Statements of objects and reasons of the Act are, as the instances of false caste Certificates in respect of Scheduled Castes, Scheduled Tribes and Backward classes, have come to the notice of the Government, and that such false caste certificates not only enable the ineligible persons to avail the concessions and reservations in the matter of securing employment and also admission in educational institutions or contesting for or being elected to any of the elective offices reserved for the benefit of the aforesaid castes, tribes and Classes but also results in depriving the members of the said castes, tribes and classes of the said concessions and reservations and thereby defeating the very object of such concessions and reservations evicted by the welfare State and that as the existing provisions of law and the instructions issued by the Government from time to time are found to be inadequate to curb this menace, it has been decided to undertake substantive legislation for regulation the issue of the Community certificate and providing inter alia deterrent punishment for those who obtain false community certificates and secure employment or admission in educational institutions or contest any of the elective offices reserved for scheduled castes, scheduled Tribes or Backward Classes, on the basis of false certificates as well as those who intentionally issue false certificates, and that it has also been decided to withdraw such benefits or concessions obtained as aforesaid by cancelling the false community certificates is issued earlier.Hence basing on the orders of the Supreme Court and other facts of the case it is felt by the District Collector that the findings of the DLSC was not acceptable and not considerable.

IV. The DLSC has also observed that in the registered sale documents of 1912 their relatives caste was recorded as Kshatriyas. They are having landed properties in large chunks and not habituated for podu cultivations which is primary lively hood scheduled tribes apart from collecting forest products. Hence the allegation that the Collector acted in a routine manner in rejecting the claim of the appellant is not correct. The relationship of Dippala Suri Dora to establish them as Scheduled Tribe, the relationship mentioned in this paras are completely from the maternal relations but not off father's side and hence the error committed by the DLSC is not accepted, accordingly the District Collector rejected the claim of the appellants taking their paternal relationships as per the orders of the Supreme Court and guidelines/objects of issue of SC,ST & BC community certificates Act, 1993. The clan name of Sri Raja Tayada Pusapati is prefixed while the family name of Raju is suffixed to their name. Admittedly

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being the elder of their community, neither have scared thread no Tulasi beads were worn by the appellant's father. The appellants admitted a prevalence of endogamous community marriages to one's own nephew or niece, with regard to clan level marriages, there does not seem to be much evidence of clan exogamy as most of their fore fathers have married at the endogamous community level itself. Mookadoras marry outside their clan (exogamous marriages) due to the concept of gotra. They practice marriage by mutual consent and no mention was made of marriage of capture, service or negotiations. Instances of sororate or levirate marriages could not be detected within their community. There is one instance of polygamous (Appellants Grandfather). The appellants mother tongue is Telugu. Their food habits reveal they eat meat, but do not consume pork and beef except during Chaitra, they consume "Wild forest Pigs" (wild Boar). Generally Mooka Doras abstain from pork or beef due to the sacred value of animal species which often from their animal totems. However, no animal totems were found in the appellants home. They described their main festival as Chaitra "Ittika Panduga" in the month of April. The villagers corroborated that the family celebrated chaitra each year. Chaitra is mentioned in the reference from the Tribal Welfare Department as the most significant festival of the Mooka Doras celebrated in honor of their deities like Boda Devata, Jakara Devata, Sanku Devata, Nishan Devata and Ganga Devata. The appellants family worship Durga/Shakti Deva and other deities like Venkateswara and Krishna. The idols placed in their Puja room confirms this. Nothing conclusive could be adduced from their garments, as most of the Community has replaced traditional wear with the modern. No specific features could be observed in the attire of their men folk during the enquiry of Sub Collector, Parvathipuram which establish that they are non STs. Based on the DLSC findings and report of the Sub Collector, Parvathipuram, the District Collector, Vizianagaram has cancelled the appellant and his children ST-Mooka Dora caste certificates.

V. Under section 6 of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act 1993 (AP Act No.16/1993) the burden of proof lies on the Appellant only.

VI. The Appellate Authority is observed that during the course of hearing of the case that the appellant submitted his arguments as per her grounds in appeal petition and stated that the lower authority failed to consider the observations of DLSC that the appellant and the family community people of the appellant both on maternal side and paternal side are Mooka Dora community and the same may be considered to conclude his community. On verification of the documents and the grounds of appeal and Para wise remarks as well as the other documents and material available on the record it is noticed that except the above contention nothing was placed for appreciation of the case of the appellant and he failed to produce any evidence that he belongs to ST community. It is further observed that fore father of the appellant claimed that he belongs to Kshatriya community as per the registered deed which is of the year 1912 and the relation of the appellant family with the Mooka Dora community is only on maternal side. Taking into consideration of the report of Tahsildar, Salur and the enquiry report of the Sub-Collector, Parvathipuram it can be safely concluded that the appellant claim of Mooka Dora Community is not sustainable. That as per the act that the burden of proof lies on the appellant and it is the responsibility of the appellant to produce necessary evidence and documents to claim the same. In the instant case that the appellant except relaying the evidence filed before the lower authority failed to produce any additional material for re-appreciation of the case on hand. As seen from the record the lower authority passed the order after reasonable appreciating the evidence available on record as per law which deserves no interference. Hence it is apparent that the appeal is devoid of any

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merits and there is no infirmity in the findings of the learned District Collector, Vizayanagaram District. The taking consideration of the above and the material available on the record that it can be concluded that the lower authority passed the order as per law which does not deserve any interference.

8. In view of the several reasons recorded in the paras supra, the Government, in exercise of the powers conferred under Section 7(2) of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act 1993 (Act No16 of 1993), decide that the appeal petition filed by Sri S.R.T.P. Thirupathi Raju S/o Simhadri Raju, does not deserve any interference. Hence, Proceedings of the District Collector, Vizianagaram issued vide Rc.No.1729/2001.C5, dated 01.10.2003, is hereby upheld and the Appeal Petition filed by Sri S.R.T.P. Thirupathi Raju S/o Simhadri Raju, is hereby dismissed and Sri S.R.T.P. Thirupathi Raju S/o Simhadri Raju and his children can't considered as ST-Mukha Dora community and belong to 'Kshatriya' community.

9. The District Collector, Vizianagaram is directed to take necessary consequential action in the matter.

10. The records (containing (M)R.Dis.No.1729/2001/C5, dated 01.10.2003, pages: CF: 1-194 & NF: 1-22) received from the District Collector, Vizianagaram through in the reference 6th read above, are returned herewith in original to the District Collector, Vizianagaram and he is requested to acknowledge the receipt of the same, immediately.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

S.S. RAWAT
PRINCIPAL SECRETARY TO GOVERNMENT

To
The District Collector, Vizianagaram. .(BY RPAD)
(with original records).

Sri S.R.T.P. Tirupati Raju,
S/o Simhadri Raju
R/o Mamidipalli Village,
Salur (M), Vizianagaram District.

Sri S.R.T.P. Sangeetha Raju,
S/o Thirupathi Raju,
R/o Mamidipalli Village,
Salur (M), Vizianagaram District.

Sri S.R.T.P.Nagesh Raju,
S/o Thirupathi Raju,
R/o Mamidipalli Village,
Salur (M), Vizianagaram District.

Sri K. Srinivas Advocate,
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Secundrabad.

The G.P. for Social welfare, A.P.H.C., Hyderabad

Copy to:

The Director, TCR& TI, AP, Amaravathi.
The PS to M(SWE & TWE).
The PS to Principal Secretary(SW&TW).

// FORWARDED:: BY ORDER //

SECTION OFFICER